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Dion Eric Savage 19734-039
FCI Pekin
P.O. Box 5000
Pekin, IL 61555

December 31, 2018

U.S. District Court for the
Eastern District of Michigan
The Honorable Bernard A. Friedman
Senior U.S. District Judge
231 W. Lafayette Blvd
Detroit, Mich 48226

F I L E D
JAN - 9 2019
CLERK'S OFFICE
DETROIT

RE: Savage v. U.S.
(Crim. Case No. 95-50061)
(Appellate Number 18-1982)

Your Honor:

On December 28, 2018, I received an order from the Court of Appeals for the Sixth Circuit remanding my Rule 54(b)/Rule 60(b)(6) motion back to this Court for the Court to adjudicate said motion.

The indictment in the case at bar as to Count One (§ 848(c)) runs afoul of the Fifth (Indictment Clause/Due Process Clause) & Sixth Amendment (Notice) because it fails to Notice the three or more predicate offenses that make up the "continuing series of violations element," offenses that are essential elements of the CCE offense (§ 848(c)(2)) as expressly stated in Richardson, 526, U.S. at 818, 826 ("The elements of the offenses charged MUST be set forth in the indictment, see Hamling v. United States, 418 U.S. 87, 117-19 (1974), so hence forth when the Government indicts it MUST choose three or more specific violations and allege those ..."), and mandated by Supreme Court precedent; it fails to charge a cognizable federal offense. And of which is a jurisdictional defect of the indictment and jurisdiction can be raised at any time and is NEVER waived. See U.S. v. Adesida, 129 F.3d 846, 850 (6th Cir. 1997) (As stated in Fed.R.Crim.P. 12(B)(2)), if an indictment "fails to show jurisdiction in the court or to charge an offense" [such] objection shall be noticed by the court at any time during the pendency of the proceeding").

To preserve judicial resources (time, energy, money, and litigation), if the government is willing to concede that the CCE conviction is constitutionally infirm and must be vacated and the following, I am willing to dismiss the § 3582(c)(2)/First Step Act proceedings.

Here is the following:

(1) after the Court vacates the unconstitutionally CCE conviction reinstate the Conspiracy conviction, see U.S. v. West, 201 F.3d 1312 (11th Cir. 2000), (2) the Court impose a 20 year term of imprisonment for the reinstated conspiracy conviction, see U.S. v. Strayhorn, 250 F.3d 462, 467-69 (6th Cir. 2000)(§ 841(b)(1)(C)), (3) subtract my good time of 1134 days plus the 32 months of extra time I have served (on a 20 yr term, it requires 17-yrs and 4-month), from my Supervised Release in accord with Johnson, supra; and (4) expedite the proceedings and the Court issue an order of immediate release.

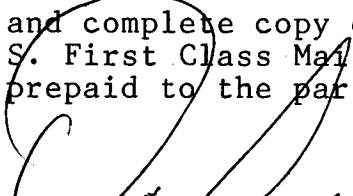
However, if the government is not willing to concede to the above, I respectfully requests the Court, in the interest of justice and in accord with due process, to direct the government or the clerk of court to forward me a copy of the Fed.R.Civ.P. 54(b) motion and ALL of the Exhibits so that I may properly and effectively argue and litigate the "jurisdictional claim (Fed.R.Crim.P. 12(b)(2))"^{1/} claim of the indictment failing to charge a cognizable federal offense. See Monsanto v. U.S., 348 F.3d 345, 349 n. 4 (2nd Cir. 2003)(quoting Monsanto, 143 F.Supp. 2d at 287 n. 10); see also Santana-Medera v. U.S., 260 F.3d 133, 140 n. 3 (2nd Cir. 2001)).

The reason for the above is because due to the new law of the First Step Act I packed all of my legal property to send home.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Motion has been placed in U.S. First Class Mail, this day of January 2, 2019, with the postage prepaid to the party below:

U.S. Attorney's Office
210 Federal Building
600 Church Street
Flint, Mich 48503


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^{1/} Your Honor, when I filed the Fed.R.Civ.Proc. 15(a) motion raising the jurisdictional/failing to charge an offense(12(b)(2)) claim, Fed.R.Crim.P. 12(b)(2) was in effect and not 12(B)(3).

I also respectfully requests the Court to respond to the Rule 54(b) motion if the government does not concede to the aforementioned.

Dion E. Savage 19734-039
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JAN 02 2019

The Chambers of the Hon. Bernard A. Friedman
⇒ 19734-039 ⇒

US District Court
231 W. Lafayette Blvd
Detroit, MI 48226
United States

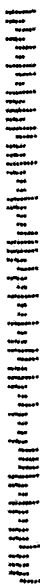
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